IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 10812 of 2005

Between:

1 Avanapu Bhaskar Rao, S/o Late China Suryanarayana,
C-10, C Block, Divya Sweets M.G. Road, Vizianagaram.
2 Gunduboyina Diwakara Babu, S/o Late China Suri Babu,
C-12 & 13, C-Block, Prakash Dalda Sweets, M.G. Road, Vizianagaram.
3 Yemika Prabhavathi, S/o Padmaja Rao,
C-14, B-Block, Pan and Vegetable Shop, M.G. Road, Vizianagaram.
4 Shaik Babulal, w/o Chinna Saheb,
Flower shop by the side of C-9, C-Block, M.G. Road, Vizianagaram.
5 Kadapala Appa Rao, S/o Late Pydithalli,
Flower shop by the side of C-9, C-Block, M.G. Road, Vizianagaram.
6 Imandi Venkata Rao, S/o Late Chinna Appalaswamy,
Fruit stall in front of D.No. 7-6-23, M.G. Road, Vizianagaram.
7 Sunkari Surya Rao, S/o Late Narasimhulu,
Sweet stall in front of D.No. 7-6-23, M.G. Road, Vizianagaram.
8 B. Akasapu Bangaram, s/o Guru Murthy,
D.No. 8-1-43, Block No.2, D.No. 8-1-72, Block No. 18, M.G. Road, Vizianagaram.

... PETITIONERS

AND

1 The District Collector, Vizianagaram.
2 The Municipal Commissioner, Vizianagaram Municipality, Vizianagaram.
3 Visakhapatnam Urban Development Authority, Visakhapatnam.
4 The Executive Engineer (R&B), Vizianagaram.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the action of the respondent herein in proposing to demolish the shops of the petitioners as mentioned in the Annexure A to the affidavit without initiating proceedings under the Land Acquisition Act or following the procedure under Section 174 of the A.P. Municipalities Act as illegal arbitrary and violative of Article 300-A of the Constitution of India and pass such other or further orders as the Hon'ble Court feels deem fit and

proper in the facts and circumstances of the case.

Counsel for the Petitioners: MR.A.JAGANNATHA RAO

Counsel for the Respondents 1 & 4: GP FOR REVENUE

Counsel for the Respondents 2 & 3: S.C. for Municipalities

The Court at the stage of admission made the following:

ORDER:

Heard the learned counsel for the petitioners, the learned standing counsel for Municipalities appearing for the respondents 2 and 3 and the learned Government Pleader for Revenue appearing for the respondents 1 and 4.

The petitioners seek a Writ of Mandamus declaring the action of the respondents in proposing to demolish the shops of the petitioners as mentioned in the Annexure-A to the affidavit without initiating proceedings under the Land Acquisition Act or following the procedure under Section 174 of the A.P. Municipalities Act as arbitrary and illegal.

It is represented by the learned counsel appearing for both the parties that the issue involved in this writ petition is squarely covered by a decision of this Court in W.P. No. 21198 of 1997 and batch, dated 03.02.1998, wherein the Division Bench while considering an identical question, issued guidelines as under:

1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2. If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other

local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

3. In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

4. If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

5. In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

6. If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

The learned counsel appearing for the respondents does not dispute the above legal position.

Accordingly, the writ petition is disposed of directing the respondents not to demolish the shops of the petitioners as mentioned in the Annexure-A filed in support of the writ petition i.e., (1) C-10, C Block, Divya Sweets (2) C-12 & C-13, C Block, Prakash Dalda Sweets (3) C-14, B-Block Pan and Vegetable Shop (4) Flower shop by the side of C-9, C Block (5) Flower Shop by the side of C-9, C Block (6) Fruit Stall in front of D.No.7-6-23

(7) Sweet stall in front of D.No.7-6-23 and (8) D.No.8-1-43 Block No.2 & D.No.8-1-72 Block No.18 respectively situated at
M.G. Road, Vizianagaram, in question without following the guidelines issued by a Division Bench of this Court in W.P.No.21198 of 1997 and batch, dated 03-02-1998.

The Writ Petition is accordingly disposed of. No order as to costs.

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G. ROHINI, J

Date: 29-04-2005.

LSK

ASSISTANT REGISTRAR

To

1 The District Collector, Vizianagaram.
2 The Municipal Commissioner, Vizianagaram Municipality, Vizianagaram.
3 Visakhapatnam Urban Development Authority, Visakhapatnam.
4 The Executive Engineer (R&B), Vizianagaram.

5. Two C.Cs. to the G.P. for Revenue, High Court buildings,
Hyderabad. (OUT)

6. Two C.D copies.